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Tax," 32 HARV. L. REV. 587, 628. The state cannot reasonably urge that value incidentally imparted to the stock by the state's protection of corporate realty is ground for taxation. Nor did the mere presence of the certificate within the state make its transfer taxable. *Kennedy v. Hodges*, 215 Mass. 112, 102 N. E. 432; *People v. Griffith*, 245 Ill. 532, 92 N. E. 313. But see *People v. Reardon*, 184 N. Y. 431, 77 N. E. 970; *Stern v. Queen*, [1896] 1 Q. B. 211.

TAXATION — PARTICULAR FORMS OF TAXATION — TAX ON ALL USE AS AN EXCISE TAX. — A statute provided that every one engaged in the business of owning or storing distilled spirits in bonded warehouses, or removing them therefrom, should pay a license tax for each gallon stored or removed from bond or transferred under bond out of the state. (1920 ACTS OF KENTUCKY, c. 13.) The state constitution provided that "taxes shall be uniform upon all property of the same class subject to taxation." (KENTUCKY CONSTITUTION, § 171.) The plaintiff, owner of a large quantity of whiskey stored in bonded warehouses, sued to enjoin collection of the tax, on the ground of unconstitutionality. Distilled spirits had not been made a special class for property taxation. *Held*, that the statute was unconstitutional. *Craig v. E. H. Taylor, Jr., & Sons*, 232 S. W. 395 (Ky.).

For a discussion of the principles involved in this case, see NOTES, *supra*, p. 70.

TAXATION — WHERE PROPERTY MAY BE TAXED — EQUITABLE INTEREST OF RESIDENT CESTUI IN FOREIGN TRUST OF INTANGIBLES. — Resident *cestuis* were taxed in Vermont on their interest in certain intangible property held in trust for them by a Massachusetts trustee. It was conceded that the property was taxable in Massachusetts. *Held*, that the tax was properly levied. *City of St. Albans v. Avery*, 114 Atl. 31 (Vt.).

Although on strict legal theory a tax is not unconstitutional simply because it results in duplicate taxation, that result was one of the considerations which led the Supreme Court to hold that a tax at the domicile of the owner on tangible personalty with an extra-state *situs* violates the due process clause. *Union Refrigerator Co. v. Kentucky*, 199 U. S. 194. But the court has upheld a tax at the domicile of the owner on intangible property having also an extra-state "business *situs*." *Fidelity Trust Co. v. Louisville*, 245 U. S. 54. See 31 HARV. L. REV. 786. One consideration behind this decision is that unless the general rule allowing a tax at the domicile of the creditor is upheld indiscriminately, much intangible property is likely to escape taxation altogether. See *Union Refrigerator Co. v. Kentucky*, *supra*, at 205. In the principal case it is almost certain that the fund will be taxed at the domicile of the creditor-trustee; and the actual decision exposes it to duplicate, or if there is a "business *situs*" in a third state, to triplicate taxation. Decisions in state courts are in accord with the principal case. *Hunt v. Perry*, 165 Mass. 287, 43 N. E. 103; *Wise v. Comm.*, 122 Va. 693, 95 S. E. 632. But whether practical considerations will cause the Supreme Court to grant relief depends upon the question how great the hardship must be before strict legal theory will bend to the economic good. The principal case lies close to the line. The Supreme Court has upheld a tax on the income from similar property. *Maguire v. Tax Commissioner*, 230 Mass. 503, 120 N. E. 162; *aff'd* 253 U. S. 12. But income tax decisions are not authority for other tax cases.

TORTS — NEGLIGENCE — DUTY OF CARE — LIABILITY OF OCCUPIER OF PREMISES TO TRESPASSER. — A springboard attached at its base to the property of the defendant railroad, extended out for several feet over the waters of a public river. The plaintiffs' intestate, swimming in the river with